

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Interchange Distribution Ltd.)
 Ward 093, Block 400, Parcel 00608) Shelby County
 Industrial Property)
 Tax Year 2006)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$399,800	\$2,441,000	\$2,840,800	\$1,136,320

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on June 20, 2007 in Memphis, Tennessee. In attendance at the hearing were registered agent Jim Schwalls and Shelby County Property Assessor's representative Rick Middleton, TCA.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 4.74 acre tract improved with a 93,561 square foot warehouse constructed in 1988 located at 5445 Mendenhall in Memphis, Tennessee.

The taxpayer contended that subject property should be valued at \$2,510,000. In support of this position, the income approach was introduced into evidence. Mr. Schwalls also noted in his exhibit (#1) that "[t]he subject was purchased on March 9, 2006 as part of a 6-property acquisition. The assigned purchase price was \$2,700,000 or \$28.42 per square foot."

The assessor contended that subject property should remain valued at \$2,840,800. In support of this position, the income approach was introduced into evidence. In addition, Mr. Middleton's analysis included several comparable sales which he asserted also support the current appraisal of subject property.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$2,776,200 in accordance with the income approach discussed below.

The administrative judge finds that the income approach should receive greatest weight. Respectfully, the administrative judge finds that the comparable sales included in

Mr. Middleton's analysis lack probative value because they were not adjusted. The administrative judge finds that the March 9, 2006 sale of subject property relied on by Mr. Schwalls also lacks probative value for two reasons. First, the sale occurred after the relevant assessment date of January 1, 2006 and is therefore irrelevant. See *Acme Boot Company and Ashland City Industrial Corporation* (Cheatham County - Tax Year 1989) wherein the Assessment Appeals Commission ruled that "[e]vents occurring after [the assessment] date are not relevant unless offered for the limited purpose of showing that assumptions reasonably made on or before the assessment date have been borne out by subsequent events." Final Decision and Order at 3. Second, the administrative judge finds that the sale involved multiple properties and the basis for the *allocated* price is unknown.¹

As will be discussed below, the administrative judge finds that the income approach supports the following valuation of subject property:

Potential Gross Income	\$ 282,554
Less Vacancy & Credit Loss (10%)	- 28,255
Effective Gross Income	\$ 254,299
Less Operating Expenses	- 25,261
Net Operating Income (NOI)	\$ 229,038
NOI Capitalized at 8.25%	÷ .0825
Indicated Value	\$2,776,218
Rounded Value:	\$2,776,200

The administrative judge finds that both parties' estimates of potential gross income were based on various models developed by the assessor of property in conjunction with the 2005 countywide reappraisal program. Mr. Middleton maintained that subject property constitutes a Class A property and a market rental rate of \$3.02 per square foot should be assumed in accordance with that model. Mr. Schwalls asserted that subject property should be characterized as a composite of the Class A and Class B models because 1988 represents the dividing line between Class A (1988 to present) and Class B (1968-1987) properties. Thus, Mr. Schwalls assumed a market rental rate of \$2.73 per square foot. This figure represents the average rental rate for the Class A (\$3.02) and Class B (\$2.44) models.

The administrative judge finds it somewhat perplexing that neither party introduced actual rent comparables in support of their contended market rental rates. The administrative judge finds 41,500 square feet of subject property is presently leased for \$2.60 per square foot pursuant to a lease which began on April 1, 2004 and terminates on March 31, 2009. The lease also provides for a monthly cost recovery of \$4,934.11 or \$12¢ per square foot. The administrative judge finds that an additional 46,000 square feet is presently leased for \$4.00 per square foot pursuant to a lease which commenced on July 1,

¹ The administrative judge would also note that in several companion appeals Mr. Middleton's attempts to utilize post-assessment date allocations were rejected for the same reasons.

2004 and expires on August 31, 2007. The administrative judge finds that these leases militate in favor of Mr. Middleton's contended rental rate of \$3.02 per square foot.

The administrative judge finds that both parties assumed a 10% vacancy and credit loss allowance in their respective income approaches. Accordingly, the administrative judge adopts a vacancy and credit loss allowance of 10% or \$28,255 should be adopted.

With respect to operating expenses, both appraisers assumed fixed expenses of 12¢ per square foot or \$11,227. The appraisers disagreed, however, concerning the proper treatment of reserves. Mr. Schwalls assumed a reserve allowance of 15¢ per square foot in accordance with the Capitalization Rate Analysis prepared for Shelby County by John W. Cherry, MAI, CRE and Karen Burkhardt Dick, CRE. Mr. Schwalls then assumed an overall rate of 8.25% which the same study determined was an appropriate rate when reserves are expensed. Mr. Middleton, in contrast, accounted for reserves by assuming an overall rate of 8.5% which the study indicated was appropriate if operating expenses do not include reserves.

The administrative judge finds that both approaches are acceptable. The administrative judge finds it preferable in this particular case to account for reserves as part of expenses. The administrative judge finds that the advantage of this approach is reserves are quantified as a standalone item rather than as part of a composite rate.

Based upon the foregoing, the administrative judge finds that the income approach supports adoption of a value of \$2,776,200 for tax year 2006.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$399,800	\$2,376,400	\$2,776,200	\$1,110,480

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

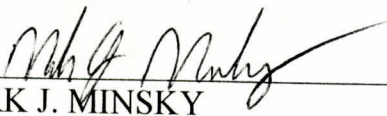
1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of

Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 24th day of August, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Jim Schwalls
Tameaka Stanton-Riley, Appeals Manager